

DETAILED ACTION

1. Applicant's election without traverse of Group I (claims 1-6, 17-18) in the reply filed on May 30, 2008 is acknowledged.

Status of Application

2. Claims 1-6, 17-18 are considered for examination in this office action. Claims 7-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group.

Priority

3. This application is filed on September 18, 2006 is a 371 of PCT/JP04/17782 filed on 11/30/2004 which claims foreign application priority to JAPAN 2004-114476 filed on 4/08/2004. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a certified English translation of the foreign application must be submitted in reply to this action. 37 CFR 41.154(b) and 41.202(e). Failure to provide a certified translation may result in no benefit being accorded for the non-English application.

Information Disclosure Statement

4. The Information Disclosure Statement filed on December 05, 2006 and December 21, 2006 have been considered.

Sequence Rules and Objection to the Specification

5. The specification is objected because of the following informalities:

(i) This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply the requirements of 37 CFR 1.821 through 1.825.

The instant application recites sequences that are not identified by SEQ ID No. (see at least Figure 4-5 or see page 35, table 3) recite a nucleic acid sequence / amino acid sequence with more than 10 nucleotides or 4 amino acids, which is not identified by SEQ ID NO.). Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

A. Claims 1-3, 6, 17-18 are rejected under 35 U.S.C. 102(a) as being anticipated by EP 1 443 052 A1 ('052) to Roche Diagnostics GmbH (published on April 08, 2004).

The patent '052 teach a sulfite composition and a kit of claims 1-2, 6, 17-18, comprising a sulfite composition of more than 6.2M and 10 M or less (see page 3, paragraph 0016, page 6, paragraph 0034, 0037, indicating the sulfite concentration of 6.25 M which is more than 6.2 M and less than 10M).

With reference to claim 3, the patent '052 teach that the pH of the composition range between 5 and 6.0 (see page 3, paragraph 0016 or line 30-31, page 6, paragraph 0034). Accordingly the instant claims are anticipated.

B. Claims 1-2, 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Dietz Jr et al. (US 3,966,880).

Dietz Jr et al. teach a sulfite composition of claims 1-2, 6 comprising a sulfite composition of more than 6.2M (see col. 3, line 3-18, indicating the sulfite concentration ranging from 5-14 or 9-12). Accordingly the instant claims are anticipated.

C. Claims 1-3, 6, 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Bergmann et al. (US 2006/0058518 A1).

Bergmann et al. teach a sulfite composition and a kit of claims 1-2, 6, 17-18, comprising a sulfite composition of more than 6.2M and 10 M or less (see page 4, paragraph 0036-0037 indicating the sulfite concentration of 6.25 M which is more than 6.2 M and less than 10M).

With reference to claim 3, Bergmann et al. teach that the pH of the composition range between 5 and 6.0 (see page 4, paragraph 0036). Accordingly the instant claims are anticipated.

D. Claims 1-2, 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Bush (US 3,971,734).

Bush teaches a sulfite composition of claims 1-2, 6, comprising a sulfite composition of more than 6.2M and 10 M or less (see col. 7, line 11-22, col. 11, line 34-68, col. 12, line 1-36 indicating the sulfite concentration upto 100 ppm or 90% sulfite solution that is equivalent to 10M).

With regard to claim 4-6, Bush teaches that the composition comprises two types of sulfites which comprise sodium salts of sulfites (see col. 5, line 22-26, line 58-66, col. 1, line 47-54). Accordingly the instant claims are anticipated.

Conclusion

No claims allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suryaprabha Chunduru whose telephone number is 571-272-0783. The examiner can normally be reached on 8.30A.M. - 4.30P.M, Mon - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 571-272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Suryaprabha Chunduru/

Primary Examiner, Art Unit 1637